

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

APRESE SYSTEMS TEXAS, LLC,

Plaintiff

v.

ROKU, INC.,

Defendant

Case No. 6:19-cv-00528

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Aprese Systems Texas, LLC (“Plaintiff” or “Aprese”) hereby asserts the following claims for patent infringement against Defendant Roku, Inc. (“Defendant” or “Roku”), and alleges, on information and belief, as follows:

THE PARTIES

1. Aprese is a limited liability company organized and existing under the laws of Texas with its principal place of business in Austin Texas.
2. Defendant is a Delaware corporation with a principal place of business located at 9606 N. MoPac Expy, Suite 400, Austin, Texas 78759.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. § 1, *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
4. Defendant has committed acts of infringement in this judicial district.

5. Defendant has a regular and established place of business in this judicial district at 9606 N. MoPac Expy, Suite 400, Austin, Texas 78759.

6. On information and belief, the Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in the state of Texas, has conducted business in the state of Texas, and/or has engaged in continuous and systematic activities in the state of Texas.

7. On information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in the Western District of Texas.

8. Venue is proper in the Western District of Texas pursuant to 28 U.S.C. § 11400(b).

ROKU

9. Upon information and belief, Defendant Roku makes, uses, imports, sells, and/or offers for sale the Roku players, including the Roku Express, the Roku Express+, the Roku Premiere, the Roku Premiere+, the Roku Streaming Stick, the Roku Streaming Stick+, and the Roku Ultra (collectively the "Roku Players"). The Roku Players are described by the Roku website and is exemplified by the following references:

- "Roku products – Roku Streaming players" ("**Roku Players**"), *available at* <https://www.roku.com/products/players> (last accessed March 18, 2019).
- "Roku Express Streaming Media Player | Powerful HD streaming. Low costs." ("**Roku Express**"), *available at* <https://www.roku.com/products/roku-express> (last accessed March 18, 2019).
- "Roku Express+ Streaming Media Player | Turn your TV into a smart TV" ("**Roku Express+**"), *available at* <https://www.roku.com/products/roku-express-plus> (last accessed March 18, 2019).

- “Roku Premiere | 4K & HDR streaming made easy” (“**Roku Premiere**”), available at <https://www.roku.com/products/roku-premiere> (last accessed March 18, 2019).
- “Roku Premiere+ - Powerful streaming. Stunning 4K and HDR. Advanced remote.” (“**Roku Premiere+**”), available at <https://www.roku.com/products/roku-premiere-plus> (last accessed March 18, 2019).
- “Roku Streaming Stick Streaming Media Player | Powerful, portable HD streaming” (“**Roku Streaming Stick**”), available at <https://www.roku.com/products/streaming-stick> (last accessed March 18, 2019).
- “Roku Streaming Stick+ | Powerful. Compact. HD, 4K & HDR.” (“**Roku Streaming Stick+**”), available at <https://www.roku.com/products/streaming-stick-plus> (last accessed March 18, 2019).
- “Roku Ultra | Our ultimate player. HD, 4K & HDR streaming.” (“**Roku Ultra**”), available at <https://www.roku.com/products/roku-ultra> (last accessed March 18, 2019).

10. Upon information and belief, Defendant Roku encourages and supports the development of televisions incorporating Roku technology (“Roku TVs”) through its licensing relationships and Roku’s Roku licensing program.

11. As stated in Roku’s Form 10-Q:

[Roku] licenses its technology and proprietary operating system to service operators and TV brands. Arrangements with service operators generally include performance obligations comprised of a license to the technology and proprietary operating system, unspecified upgrades or enhancements, hosting of a branded channel store, and engineering and support services. [Roku] has determined that the license for the technology and the operating system is one performance obligation. Licensing fees from service operators are mostly generated from unit activations or flat fees and from ongoing maintenance.

Arrangements with TV brands commonly include a license to the [Roku]’s technology and proprietary operating system over a specified term including updates and upgrades. Licensing revenues from TV brands are generated on a flat fee basis or from per unit licensing fees. Arrangements

may also include marketing development funds paid to TV brands on a flat fee or a per unit basis. Marketing development funds are included as a reduction to the estimated transaction price.

“SEC Filing” (“**10-Q**”) at p. 16, *available at* <https://ir.roku.com/node/7416/html> (last accessed March 18, 2019).

[Roku] sells the majority of its players through retail distribution channels, including brick and mortar and online retailers, and through the Company’s website. The Company’s player revenue includes allowances for returns and sales incentives in the estimated transaction price. These estimates are based on historical experience and anticipated performance.

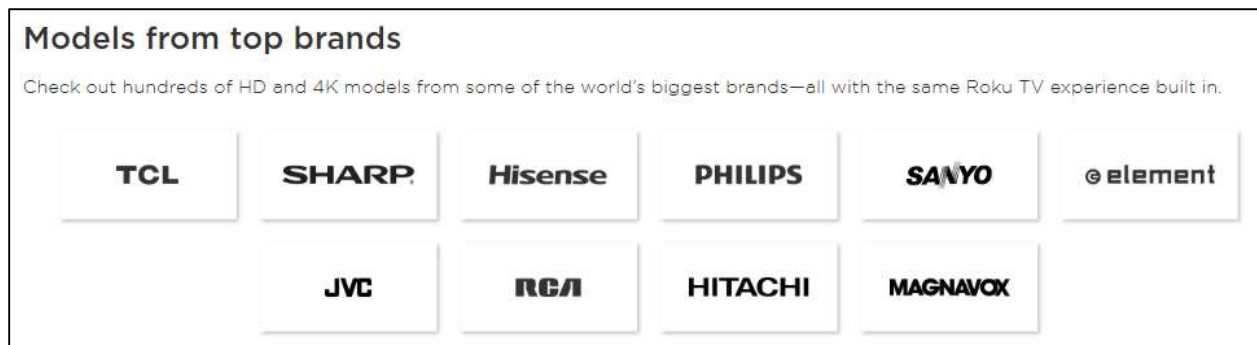
The [Roku]’s player revenue include two performance obligations:

- hardware, which includes embedded software, and
- unspecified upgrades or enhancements on a when-and-if available basis.

The Company has determined that its hardware and embedded software be considered as one performance obligation because the customer cannot benefit from the hardware or the embedded software either on its own or together with other resources that are readily available to the customer.

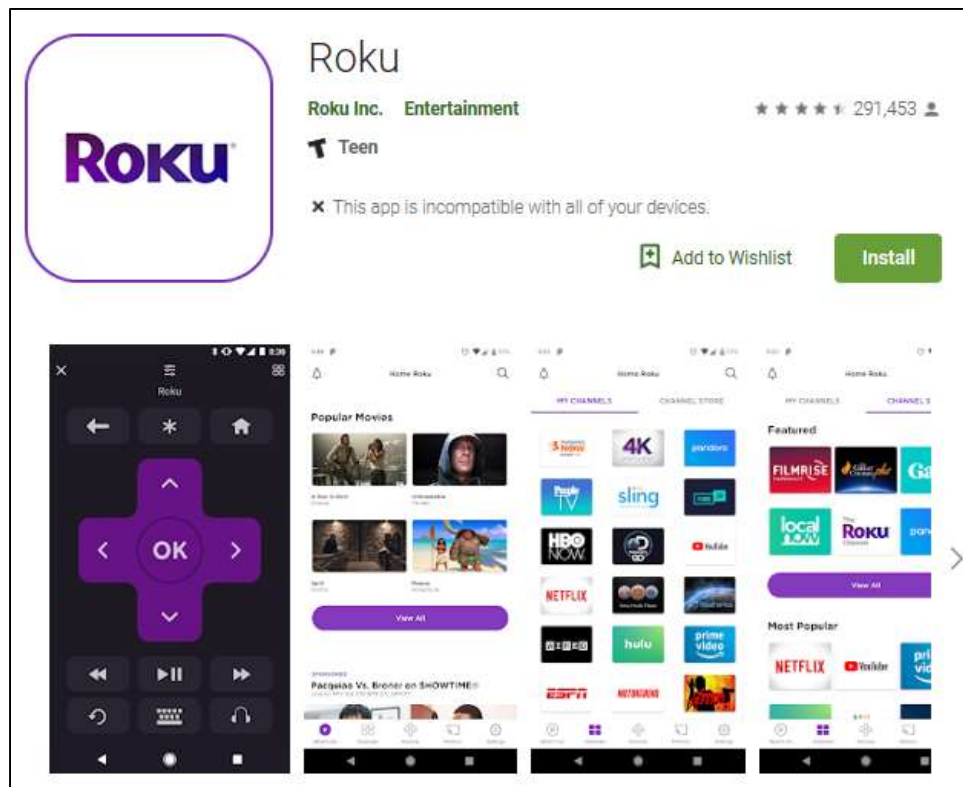
10-Q at p. 17.

12. Roku TVs include models from the following manufacturers: TCL, SHARP, Hisense, PHILIPS, SANYO, element, JVC, RCA, HITACHI, and MAGNAVOX.



“Find The Best Smart TV – 32, 40 & 55+ Inch Roku TVs – Roku Canada” (“**Roku TVs**”), available at <https://www.roku.com/products/roku-tv/options-for-every-room> (last accessed March 18, 2019).

13. Roku publishes and provides the Roku Mobile app for iOS and Android devices that turns a user’s mobile device into an “ultimate streaming companion for Roku streaming players and Roku TVs. “Roku – Apps on Google Play” (“**Roku-Google**”), available at <https://play.google.com/store/apps/details?id=com.roku.remote> (last accessed March 18, 2019).



Roku-Google.

The Roku® mobile app is a free application for iOS® and Android™ devices that turns your mobile device into our ultimate streaming companion for Roku streaming players and Roku TVs.

To use the Roku mobile app, you must connect your phone or tablet to the same wireless network as your Roku device. Certain features require a compatible Roku device, and may require logging in to your Roku account.

Complement your Roku streaming experience and use the Roku mobile app to:

- Use your phone or tablet as a remote control for your Roku device
- Browse a hand-picked selection of great movies and TV shows using What's On
- Use your voice or mobile keyboard to search for movies, TV shows, actors and directors
- Launch your favorite channels directly from your mobile device
- Add channels and games from the Roku Channel Store
- Listen to audio from streaming movies or shows through your headphones with Private listening *
- Cast videos, photos, and music to your TV using Play on Roku
- Use your mobile keyboard to enter text on your Roku device
- Follow your favorite movies, shows and actors/directors using My Feed

Roku-Google.

THIS APP REQUIRES A ROKU STREAMING PLAYER OR ROKU TV™

Certain features require compatible Roku devices and may require logging in to your Roku account.

FEATURE AVAILABILITY

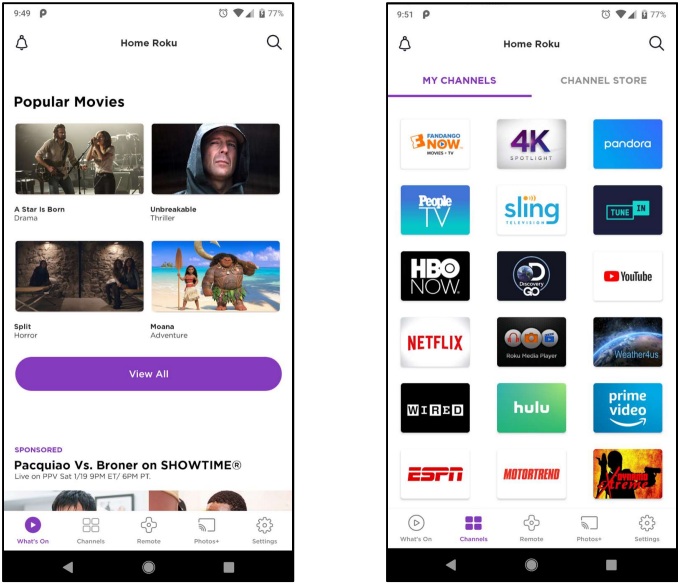
- Roku Search is available only when your connected Roku streaming player or Roku TV supports this functionality. Roku Search is not available in Mexico.
- Searching by voice is available in English in the US and Canada only.
- The Roku app is available in English language only in Mexico.

* Mobile Private Listening is available for Roku Express, Express+, Roku Streaming Stick (3600), Roku Premiere, Premiere+, Roku Ultra and Roku TVs

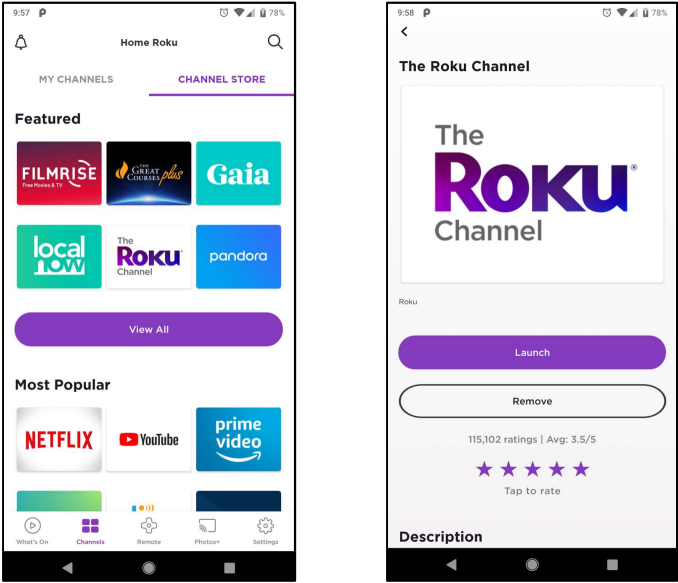
** Subscription or other payment may be required to access certain channel content. Channel availability is subject to change and varies by country.

For more information and troubleshooting help, go to <http://support.roku.com>

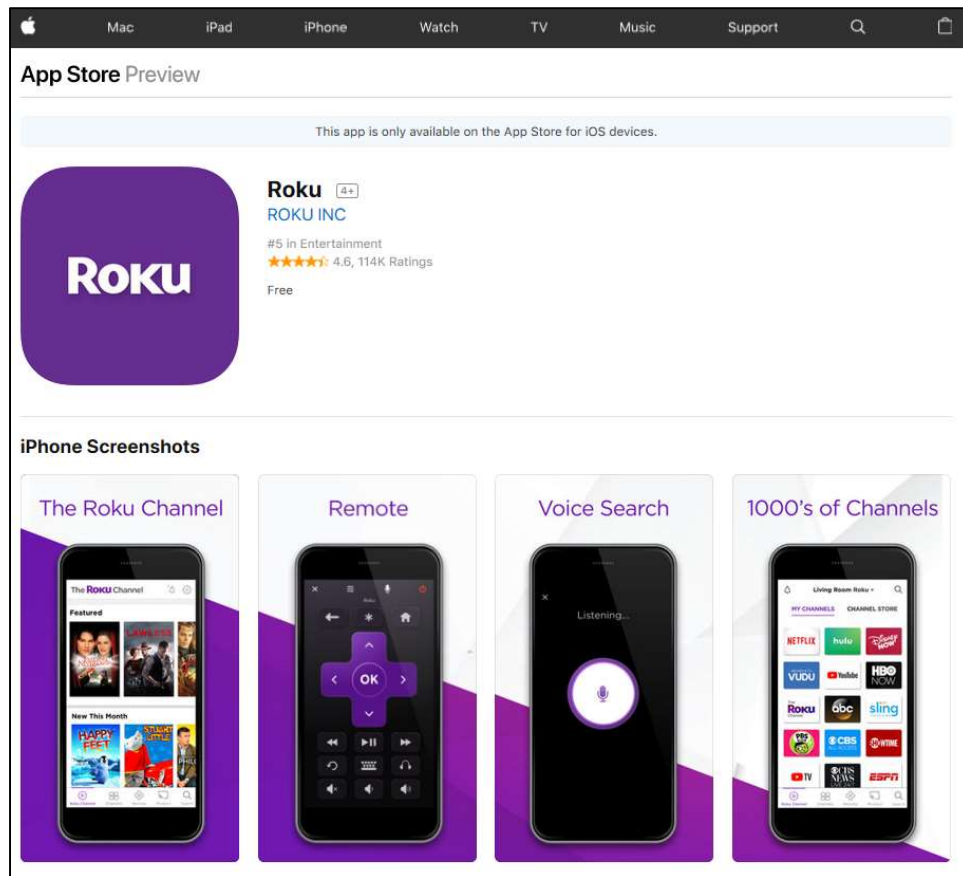
Roku-Google.



Roku-Google.



Roku-Google.



“Roku on the App Store” (“Roku-Apple”), available at <https://itunes.apple.com/us/app/roku/id482066631?mt=8> (last accessed March 18, 2019).

Turn your mobile device into the ultimate streaming companion with the free Roku® mobile app.

Stream hundreds of hit movies, TV shows and more on the go with The Roku Channel, use it as a second remote, enjoy private listening, and more.

The free Roku mobile app makes it easy and fun to control your Roku player and Roku TV™.

Use the Roku mobile app to:

- Control your Roku device as another remote
- Stream hit movies, TV shows and more on the go with The Roku Channel
- Enjoy private listening* with headphones
- Use your voice or keyboard to search for movies, shows, actors, and directors
- Cast videos, photos, and music to your TV
- Add and launch channels on your Roku device
- Enter text on your Roku device easier with your keyboard

To use certain features of the Roku mobile app, you must connect your phone or tablet to the same wireless network as your Roku device. Certain features require a compatible Roku device, and may require logging in to your Roku account.

Roku-Apple.

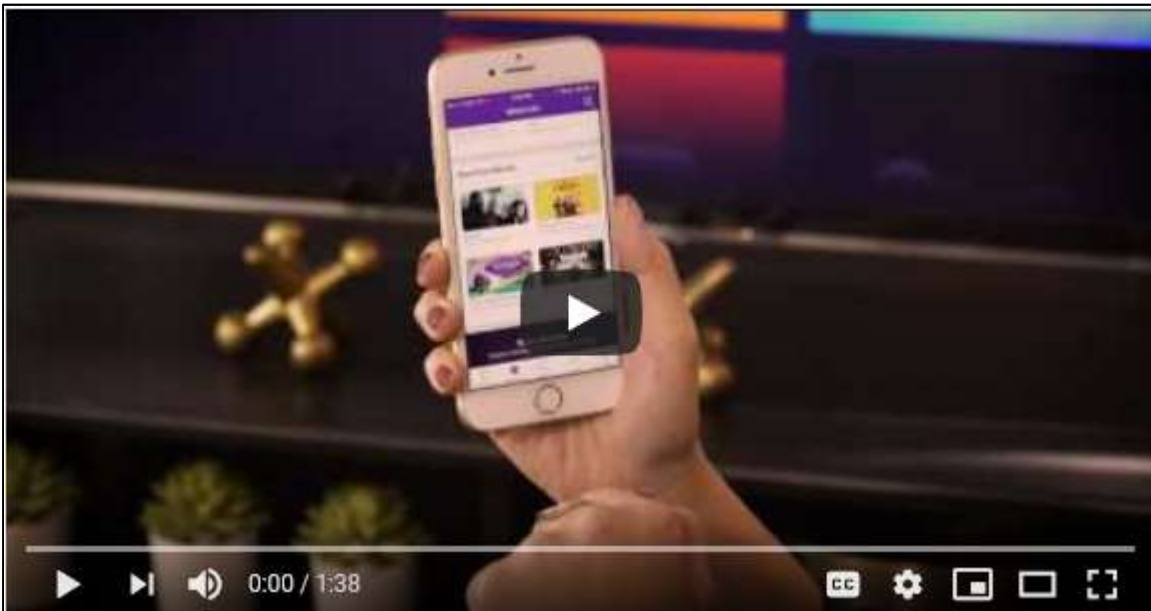
To use certain features of the Roku mobile app, you must connect your phone or tablet to the same wireless network as your Roku device. Certain features require a compatible Roku device, and may require logging in to your Roku account.

Feature availability:

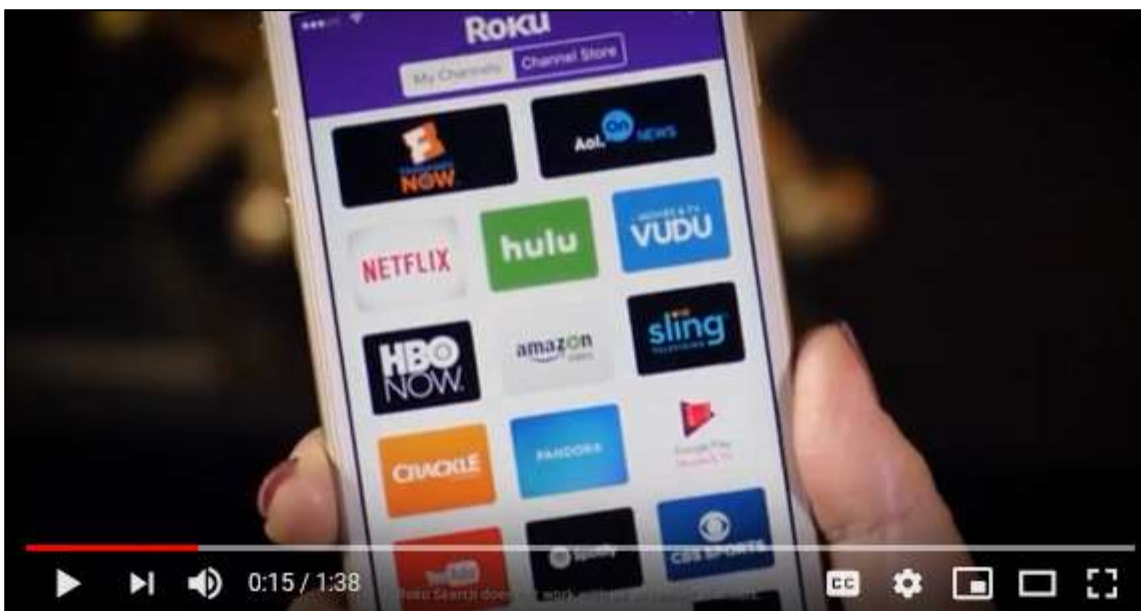
- Searching by voice is available in English in the US, UK, and Canada only.
- The Roku app is available in English only in Mexico.
- * Mobile private listening is available for Roku Express, Express+, Roku Streaming Stick (3600, 3800, 3810), Roku Streaming Stick+, Roku Premiere, Roku Premiere+, Roku Ultra and Roku TVs.
- ** Subscription or other payment may be required to access certain channel content. Channel availability is subject to change and varies by country.

For more information and troubleshooting help, go to <http://support.roku.com>

Roku-Apple.



“(94) Official Roku mobile app for iOS and Android - YouTube” (“**Roku-YouTube**”), available at <https://www.youtube.com/watch?v=6OFPHxqlEvc#action=share> (last accessed March 18, 2019).



Roku-YouTube.

NOTICE OF APRESE'S PATENTS

14. Plaintiff is the owner, by assignment, of U.S. Patent No. 8,887,155 (the “155 Patent”), entitled SYSTEM, METHOD, AND APPARATUS FOR MANAGING APPLICATIONS, INFORMATION, AND SERVICES, which issued on November 11, 2014. A copy of the '115 Patent is available at <https://patents.google.com/patent/US8887155B2/en?q=8%2c887%2c155>.

15. Defendant has been on notice of the '155 Patent at least as early as the date it received service of this complaint.

16. Plaintiff is the owner, by assignment, of U.S. Patent No. 8,732,697 (the “697 Patent”), entitled SYSTEM, METHOD AND APPARATUS FOR MANAGING APPLICATIONS ON A DEVICE, which issued on May 20, 2014. A copy of the '697 Patent is available at <https://patents.google.com/patent/US8732697B2/en?q=8%2c732%2c697>.

17. Defendant has been on notice of the '697 Patent at least as early as the date it received service of this complaint.

18. Plaintiff is the owner, by assignment, of U.S. Patent No. 9,207,924 (the “’924 Patent”), entitled APPARATUS FOR ENABLING DELIVERY AND ACCESS OF APPLICATIONS AND INTERACTIVE SERVICES, which issued on December 8, 2015.

A copy of the ’924 Patent is available at <https://patents.google.com/patent/US9207924B2/en?q=9%2c207%2c924>.

19. Defendant has been on notice of the ’924 Patent at least as early as the date it received service of this complaint.

20. Plaintiff is the owner, by assignment, of U.S. Patent No. 9,210,214 (the “’214 Patent”), entitled SYSTEM, METHOD AND APPARATUS FOR ENABLING ACCESS TO APPLICATIONS AND INTERACTIVE SERVICES, which issued on December 8,

2015. A copy of the ’214 Patent is available at <https://patents.google.com/patent/US9210214B2/en?q=9%2c210%2c214>.

21. Defendant has been on notice of the ’214 Patent at least as early as the date it received service of this complaint.

22. Plaintiff is the owner, by assignment, of U.S. Patent No. 9,215,273 (the “’273 Patent”), entitled APPARATUS FOR ENABLING DELIVERY AND ACCESS OF APPLICATIONS AND INTERACTIVE SERVICES, which issued on December 8, 2015.

A copy of the ’273 Patent is available at <https://patents.google.com/patent/US9215273B2/en?q=9%2c215%2c273>.

23. Defendant has been on notice of the ’273 Patent at least as early as the date it received service of this complaint.

24. Plaintiff is the owner, by assignment, of U.S. Patent No. 10,255,059 (the “’059 Patent”), entitled METHOD APPARATUS AND SYSTEMS FOR ENABLING

DELIVERY AND ACCESS OF APPLICATIONS AND SERVICES, which issued April 9, 2019. A copy of the '059 Patent is available at <https://patents.google.com/patent/US10255059B2/en?q=10%2c255%2c059>.

25. Defendant has been on notice of the '059 Patent at least as early as the date it received service of this complaint.

COUNT I
(Infringement of U.S. Patent No. 8,887,155)

26. Plaintiff incorporates the above paragraphs herein by reference.

27. The '155 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

28. The Roku Players and Roku TVs are designed to connect to provide interactive services using applications. (collectively "**the Accused Products**").

29. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including Claim 1, of the '115 Patent by making, using, importing, selling, and/or, offering for sale the Accused Products in the United States without authority.

30. Defendant has infringed and continues to infringe the '155 Patent either directly or through the acts of contributory infringement or inducement in violation of 35 U.S.C. § 271.

31. Defendant encourages others, including TCL, SHARP, Hisense, PHILIPS, SANYO, element, JCV, RCA, HITACHI, and MAGNAVOX, to manufacture, import, sell, and use the Accused Products in the United States without authority.

32. Defendant encourages others, including Walmart, Best Buy, Amazon, The Electronic Express, HSN, RCWilley, BrandsMart USA, PC Richard & Son,

TigerDirect.com, Sams Club, Costco Wholesale, and Target to sell the Accused Products in the United States without authority.

33. Claim 1 of the '155 Patent recites:

1. A media device for providing interactive services using applications, said media device comprising:

- a. at least one non-transitory computer-readable storage medium having a computer-readable program stored therein, said computer-readable program executable by a processor associated with said media device;
- b. said computer-readable program comprising sets of instructions to enable said processor to:
 - i. associate with a client device;
 - i. receive a plurality of information comprising a first application identification information from said client device, wherein said plurality of information is based on at least one of an environment, a user interaction event and activity on said client device;
 - iii. identify a first application using said first application identification information;
 - iv. enable access to said first application on said media device; and
 - v. enable display of information related to at least one of applications and media on a display associated with said media device.

34. As exemplified in the information referenced in paragraphs 9-13 and use of one or more of the Accused Products, the Accused Products are media devices for providing interactive services using applications.

35. As exemplified in the information referenced in paragraphs 9-13 and use of one or more of the Accused Products, the Accused Products include at least one non-transitory computer-readable storage medium having a computer-readable program stored therein, the computer-readable program executable by a processor associated with the media device.

36. As exemplified in the information referenced in paragraphs 9-13 and use of one or more of the Accused Products, the Accused Products include a computer-readable program comprising sets of instructions to enable the processor to associate with a client device, receive a plurality of information comprising a first application identification information from client device, wherein plurality of information is based on at least one of an environment, a user interaction event and activity on client device, identify a first application using first application identification information, enable access to first application on media device; and enable display of information related to at least one of applications and media on a display associated with media device.

37. Plaintiff has been damaged by Defendant's infringement of the '155 Patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against Defendant:

1. declaring that the Defendant has infringed the '155 Patent;
2. awarding Plaintiff its damages suffered as a result of Defendant's infringement of the '155 Patent;
3. awarding Plaintiff its costs, attorneys' fees, expenses, and interest; and
4. granting Plaintiff such further relief as the Court finds appropriate.

JURY DEMAND

Plaintiff demands trial by jury, Under Fed. R. Civ. P. 38.

Dated: September 9, 2019

Respectfully Submitted

/s/ Raymond W. Mort, III

Raymond W. Mort, III

Texas State Bar No. 00791308

raymort@austinlaw.com

THE MORT LAW FIRM, PLLC

100 Congress Ave, Suite 2200

Austin, Texas 78701

Tel/Fax: (512) 865-7950

ATTORNEYS FOR PLAINTIFF